

RESPONSE

I. Status of the Claims

Prior to this supplemental response, claims 110-113, 116-164, 167-172, 174-184, 186-189, 191-193, 195-208 and 211-218 were pending. Claims 110-113, 116-132, 134, 135, 137-164, 167-172, 174-184, 186-189, 191-193, 195-208 and 211-218 were allowed in the sixth Action. Claims 133 and 136 are now also in condition for allowance.

II. Specification Informalities

The sixth Action pointed out that SEQ ID NO:46 and SEQ ID NO:47 had a discrepancy in regard to the codon encoding the amino acid at position 207 and appropriate correction was requested (sixth Action at page 2).

The amino acid at position 207 of SEQ ID NO:47 is correctly listed as serine. The corresponding codon in SEQ ID NO:46 was inadvertently listed as TGC, which would have encoded cysteine. The correct codon from SEQ ID NO:46 to encode serine at position 207 is TCC (see codon table at page 62 of the specification), which requires a single change from G to C at nucleotide position 620 in SEQ ID NO:46. Appropriate correction has been made, and the required substitute sequence listing diskette, paper copies and statements are enclosed herewith.

The amendment to nucleotide position 620 in SEQ ID NO:46 of the sequence listing is supported by the application as filed (see, *e.g.*, pages 50, 62 and 177-179) and does not constitute new matter. This is highlighted by the following reasoning.

SEQ ID NO:46 and SEQ ID NO:47 are the coding and amino acid sequences, respectively, of the protein described as "human P-TEFb large subunit clone HBL1-2" (see, *e.g.*, specification at page 50). The specification also discloses the coding and amino acid sequences of other human P-TEFb large subunit clones, including the coding and amino acid sequences of

the subunit termed "human P-TEFb large subunit clone HBL1-1", which are designated as SEQ ID NO:44 and SEQ ID NO:45, respectively (also see specification at page 50).

The specification teaches that the only difference between HBL1-1 and HBL1-2 is the presence of a 99 bp intron in HBL1-2 (SEQ ID NO:46) that is not present in HBL1-1 (SEQ ID NO:44) (specification at pages 177 and 178). This results in a 33 amino acid difference in the encoded HBL1-1 and HBL1-2 proteins of SEQ ID NO:45 and SEQ ID NO:47, respectively (specification at page 178, lines 12-14). It is further taught that the 99 bp intron begins at position 1927 and ends at position 2025 of coding sequence HBL1-2 (SEQ ID NO:46) (specification at page 177). The intron is thus far removed from the region surrounding nucleotide position 620. The specification anyway teaches that "if the 99 bp intron of HBL1-2 is excluded then HBL1-1 and HBL1-2 are identical" (specification at page 177, lines 24-25, emphasis added).

In the application as filed, amino acid 207 of SEQ ID NO:45 (HBL1-1) is listed as serine and correctly identified as being encoded by the codon TCC in SEQ ID NO:44, in which the nucleotide at position 620 is C. In the application as filed, the sequences of HBL1-2 (SEQ ID NO:46 and SEQ ID NO:47) are taught to be identical to those of HBL1-1 (SEQ ID NO:44 and SEQ ID NO:45) except for the 99 bp intron from positions 1927-2025.

Thus, one of ordinary skill in the art would understand that the discrepancy between SEQ ID NO:46 and SEQ ID NO:47 (HBL1-2) should be resolved to be consistent with SEQ ID NO:44 and SEQ ID NO:45 (HBL1-1). That is, one of ordinary skill in the art would recognize that a clerical mistake had been included at original nucleotide 620 of SEQ ID NO:46, and that the G listed at nucleotide 620 of SEQ ID NO:46 should be corrected to read C, thus providing codon TCC. Both the nature of the error and the required correction would be recognized, as

correcting a single nucleotide (position 620) in SEQ ID NO:46 not only makes SEQ ID NO:46 and SEQ ID NO:47 consistent, but also matches SEQ ID NO:44 and SEQ ID NO:45, which is taught to be proper in the specification.

Therefore, the change to SEQ ID NO:46 in the enclosed sequence listing does not constitute new matter, but simply represents the correction of an obvious typographical or clerical-type error. The amendment is therefore proper, as those of ordinary skill in the art would both recognize the existence of the error and appreciate the nature of the correction. *In re Oda*, 170 USPQ 268 (CCPA 1971). See also, MPEP 2163.07, describing amendments that are NOT new matter (emphasis as in original; MPEP, February 2003, page 2100-177, column 2).

The informality in the specification has thus been corrected and any objection based thereon is overcome.

III. Entry of Amendments

The present amendment is entitled to entry after final rejection under 37 C.F.R. § 1.116(b) as the amendment places the application in condition for allowance. The amendment is also entitled to entry under 37 C.F.R. § 1.116(c) as the amendment is responsive to an issue raised for the first time in the final Action and could not have been earlier presented.

IV. Period for Response

The initial period for response to the sixth Action ran until December 09, 2003. A first response was filed with a one month extension and appropriate fee. The present response is therefore timely filed with an incremental two month extension and appropriate fee.

V. Conclusion

These documents complete the response to the sixth Official Action. In conclusion, Applicant submits that the present application is in condition for allowance and such favorable

action is respectfully requested. Should Examiner Steadman have any questions or comments, a telephone call to the undersigned Applicant's representative is earnestly solicited.

Respectfully submitted,
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